

AMENDED IN SENATE JULY 11, 1996  
AMENDED IN ASSEMBLY MAY 16, 1996  
AMENDED IN ASSEMBLY MAY 2, 1996  
AMENDED IN ASSEMBLY MARCH 28, 1996

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2605**

**Introduced by Assembly Members Bordonaro and  
McPherson**

February 21, 1996

---

---

An act to amend Section 1981 of the Civil Code, and to amend Sections 9973, 9974, 10007, 10081, 10151, 10401, 10406, 10421, 17003, 17042, 17095, 20904, 20906, 21051, 21068, and 21702 of, and to repeal Section 21292 of, the Food and Agricultural Code, relating to animals, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 2605, as amended, Bordonaro. Animals and cattle.

(1) Existing provisions of the Civil Code specify a procedure for the disposition of personal property that remains on the premises after a tenancy has terminated and the premises have been vacated by the tenant.

This bill would exempt from these provisions the disposition of an animal, ~~as that term is defined in a certain provision to which certain provisions~~ of the Food and Agricultural Code apply.

(2) Existing law provides for the testing of bovine animals for bovine tuberculosis and requires every bovine animal that reacts positively to a tuberculin test (reactor) to be permanently branded on the left jaw.

This bill, among other things, would require every reactor to be identified, rather than branded, pursuant to regulations of the Department of Food and Agriculture and the United States Department of Agriculture.

The bill also would make other conforming changes.

(3) Existing law requires indemnification for any bovine animal that was vaccinated for brucellosis after reaching 12 months of age and that was part of an official whole herd adult vaccination plan approved by the Secretary of Food and Agriculture. For these purposes, existing law defines “official whole herd adult vaccination plan” as a plan, approved by the secretary, whereby all female cattle exceeding 12 months of age are vaccinated against brucellosis using a reduced dose of strain 19 vaccine and are identified with the appropriate tattoo symbols in the right ear.

This bill, instead, would define “official whole herd adult vaccination plan” as a plan, approved by the secretary, whereby all female cattle exceeding 12 months of age are vaccinated against brucellosis using a vaccine, as specified, and are identified as required by the department.

(4) Certain provisions of the Food and Agricultural Code provide for the impounding of bovine animals, horses, mules, sheep, swine, or burros whose owners are unknown or cannot be located. Under existing law, if no person appears and claims any of these impounded animals within 5 days, the poundkeeper or other pound officer is required to notify the secretary.

This bill, instead, would require the poundkeeper or other pound officer to immediately notify the secretary upon the impounding of any of these animals.

(5) Existing law requires any person who takes up an estray animal to confine it in a secure place and within 5 days file with the secretary a notice containing certain information regarding the animal.

This bill, instead, would require the person to immediately file that notice with the secretary.



(6) Under the provisions of existing law, as specified in (5) above, the person who takes up an estray animal, the “taker-up,” is entitled to a per-day payment for the keeping and care of the animal. Under existing law, the taker-up is not paid for feed and care for more than 5 days prior to the date that the notice, as specified in (5) above, is required to be made to the secretary.

This bill would repeal this latter provision limiting the amount that may be paid to the taker-up for the feed and care of the estray animal prior to the date that the notice is required to be made to the secretary. Because the funds in the Department of Food and Agriculture Fund are continuously appropriated for purposes of these provisions, this bill would make an appropriation by deleting this limitation.

(7) Existing law includes provisions governing cattle protection and identification, and provides that a violation of that law is generally a misdemeanor, punishable as specified.

Existing law authorizes the branding of cattle, as specified, and provides that a cattle record brand may be placed upon either loin in front of the hip and behind the ribs or on the right jaw of the animal.

This bill would delete the provisions specified above that a cattle record brand may be placed on the right jaw of the animal, thereby expanding the scope of an existing crime and imposing a state-mandated local program.

(8) Existing law generally requires cattle to be inspected prior to movement or branding, whichever occurs first, when cattle are sold or ownership is transferred.

This bill, instead, would require cattle to be inspected whenever cattle are sold or ownership is transferred.

(9) Existing law, with limited exceptions, requires cattle that are shipped directly from a registered feedlot in this state for immediate slaughter outside this state to be brand inspected and a brand certificate to be issued.

This bill would repeal this provision.

(10) Existing law prohibits a person from buying, selling, or accepting any animal, unless the seller or donor gives, and the buyer or donee receives, at the time of the delivery of the animal, a written bill of sale or written instrument from the owner that gives certain information concerning the animal.

Existing law also requires the bill of sale to be made out in triplicate with one copy to be mailed to the secretary within 30 days of the date of the sale.

This bill would repeal this latter provision requiring the bill of sale to be made out in triplicate with one copy to be mailed to the secretary within 30 days of the date of sale.

(11) The bill also would make technical, nonsubstantive changes by, among other things, changing obsolete references from the Director of Food and Agriculture to the Secretary of Food and Agriculture.

(12) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: yes. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 1981 of the Civil Code is  
2 amended to read:

3 1981. (a) This chapter provides an optional  
4 procedure for the disposition of personal property that  
5 remains on the premises after a tenancy has terminated  
6 and the premises have been vacated by the tenant.

7 (b) This chapter does not apply whenever Section  
8 1862.5, 2080.8, 2080.9, or 2081 to 2081.6, inclusive, applies.  
9 This chapter does not apply to property that exists for the  
10 purpose of providing utility services and is owned by a  
11 public utility, whether or not that property is actually in  
12 operation to provide those utility services.

13 (c) This chapter does not apply to any manufactured  
14 home as defined in Section 18007 of the Health and Safety  
15 Code, any mobilehome as defined in Section 18008 of the  
16 Health and Safety Code, or to any commercial coach as  
17 defined in Section 18001.8 of the Health and Safety Code,  
18 including attachments thereto or contents thereof,  
19 whether or not the manufactured home, mobilehome, or



1 commercial coach is subject to registration under the  
2 Health and Safety Code.

3 (d) This chapter does not apply to the disposition of an  
4 ~~animal as defined in Section 16302 of the Food and~~  
5 ~~Agricultural Code.~~ *animal to which Chapter 7*  
6 *(commencing with Section 17001) of Part 1 of Division 9*  
7 *of the Food and Agricultural Code applies, and those*  
8 *animals shall be disposed of in accordance with those*  
9 *provisions. The person required to file the notice with the*  
10 *Secretary of Food and Agriculture pursuant to Section*  
11 *17042 of the Food and Agricultural Code shall provide a*  
12 *copy of the notice to the tenant, if the tenant's*  
13 *whereabouts is known, at the time the notice is filed with*  
14 *the secretary.*

15 (e) If the requirements of this chapter are not  
16 satisfied, nothing in this chapter affects the rights and  
17 liabilities of the landlord, former tenant, or any other  
18 person.

19 SEC. 2. Section 9973 of the Food and Agricultural  
20 Code is amended to read:

21 9973. Every reactor, immediately upon the  
22 determination of such reaction, shall be identified,  
23 pursuant to regulations of the department and the United  
24 States Department of Agriculture, by its owner or the  
25 owner's agent under the supervision of the approved  
26 veterinarian who conducts the tuberculin test.

27 SEC. 3. Section 9974 of the Food and Agricultural  
28 Code is amended to read:

29 9974. If the secretary has reason to suspect an  
30 irregularity in the application of a tuberculin test or the  
31 identification of reactors, the secretary may enter any  
32 premises for the purpose of examining any bovine  
33 animals in or on the premises to determine if there has  
34 been any abuse or misuse of tuberculin, or any faulty,  
35 unskillful, or irregular technique or procedure in the  
36 application of the tuberculin test, identification of  
37 reactors, or identification of animals under the tuberculin  
38 test.

39 SEC. 4. Section 10007 of the Food and Agricultural  
40 Code is amended to read:

1 10007. Cattle of the following classes may enter a  
2 tuberculosis control area in accordance with the  
3 regulations of the department:

4 (a) Cattle regularly tested and nonreacting in a  
5 tuberculosis control area, or from state or federal  
6 accredited herds or modified accredited herds or from  
7 modified accredited areas.

8 (b) Cattle of beef breeds.

9 (c) Cattle that are to be sold and reshipped out of the  
10 area.

11 (d) Cattle that have been tested and found to be  
12 reactors and identified that are shipped for immediate  
13 slaughter.

14 SEC. 5. Section 10081 of the Food and Agricultural  
15 Code is amended to read:

16 10081. (a) Notwithstanding any other provision of  
17 this chapter, the secretary may proceed with the  
18 identification of nonreacting animals in a herd in the  
19 same manner as is provided in Section 9973 and require  
20 the slaughter of those animals and the disinfection of the  
21 premises where the animals have been kept if the  
22 secretary satisfies all of the following requirements:

23 (1) Determines that bovine tuberculosis cannot be  
24 eradicated or effectively controlled in the particular herd  
25 by the usual recognized methods.

26 (2) Determines that slaughter of the remaining  
27 exposed nonreacting animals in the herd is the best and  
28 most practical method of attaining eradication or control  
29 of the bovine tuberculosis.

30 (3) Has entered into a voluntary agreement with the  
31 owner of the nonreacting animals to carry out the  
32 purposes and conditions of this chapter.

33 (b) The owner of the nonreacting animals may be  
34 indemnified if funds are available.

35 SEC. 6. Section 10151 of the Food and Agricultural  
36 Code is amended to read:

37 10151. If the owner or any person that is in charge of  
38 cattle, after 10 days' written notice, refuses properly to  
39 confine in corrals or stanchions any cattle that are subject  
40 to examination, tuberculin testing, identification, or

slaughter, the department may employ help and incur expenses that are necessary to properly examine, tuberculin test, identify, or slaughter, the cattle.

SEC. 7. Section 10401 of the Food and Agricultural Code is amended to read:

10401. Any bovine animal in a brucellosis control area that reacts positively to a test for brucellosis shall immediately be identified pursuant to the regulations of the secretary. The animal shall be slaughtered within 30 days in accordance with the regulations of the secretary.

SEC. 8. Section 10406 of the Food and Agricultural Code is amended to read:

10406. Indemnity shall not be paid to any person in any of the following cases:

(a) For any steer or grade bull that is determined to be a reactor.

(b) For any bovine animal that is brought into a brucellosis control area, that reacts to a brucellosis test which is applied within 90 days after the arrival of the animal in the area as provided for in this chapter.

(c) For any bovine animal that is brought into a brucellosis control area, in violation of any law, any regulation of the department, or any rule or regulation of the United States Department of Agriculture.

(d) For any reacting bovine animal, until the premises, where the animal had been kept, have been cleaned and disinfected by the owner in a manner approved by an agent of the department or of the United States Department of Agriculture.

(e) For any reacting bovine animal that is not slaughtered within 30 days after the animal was appraised.

(f) For any animal that is owned by the United States, this state, or any county or city in the state.

(g) For any bovine animal that was vaccinated for brucellosis after reaching 12 months of age. However, indemnity shall be provided for any bovine animal that was vaccinated after reaching 12 months of age and that was part of an official whole herd adult vaccination plan approved by the secretary. "Official whole herd adult

1 vaccination plan” means a plan, approved by the  
2 secretary, whereby all female cattle exceeding 12 months  
3 of age are vaccinated against brucellosis using an  
4 approved vaccine as defined in Section 10311 and are  
5 identified as required by the department.

6 (h) For any bovine animal in a herd that has been  
7 under an order to hold, issued pursuant to Section 9565,  
8 for more than 18 consecutive months, except as provided  
9 by subdivision (i).

10 (i) For any officially adult vaccinated bovine animal in  
11 a herd that has been under an order to hold, issued  
12 pursuant to Section 9565, for more than 22 consecutive  
13 months.

14 (j) If the person has violated any provision of this  
15 chapter that relates to a brucellosis control area, or any  
16 regulation that is adopted by the department that relates  
17 to such an area.

18 SEC. 9. Section 10421 of the Food and Agricultural  
19 Code is amended to read:

20 10421. Notwithstanding any other provision of this  
21 chapter, the secretary may proceed with the  
22 identification of nonreacting animals in a herd in the  
23 same manner as provided in Section 10401 and require  
24 the slaughter of those animals and the disinfection of the  
25 premises where the animals have been kept if all of the  
26 following requirements are satisfied:

27 (a) The secretary determines that bovine brucellosis  
28 cannot be eradicated or effectively controlled in the  
29 particular herd by the usual recognized methods.

30 (b) The secretary determines that slaughter of the  
31 remaining exposed nonreacting animals in the herd is the  
32 best and most practical method of attaining eradication  
33 or control.

34 (c) The secretary has entered into a voluntary  
35 agreement with the owner of the nonreacting animals to  
36 carry out the purposes and conditions of this chapter.

37 (d) Funds are available to indemnify the owner of the  
38 nonreacting animals.

39 SEC. 10. Section 17003 of the Food and Agricultural  
40 Code is amended to read:



1 17003. Except as provided in this section, this chapter  
2 does not affect any law or regulation regarding estrays,  
3 the poundkeeper, or the other pound officer within the  
4 limits of any city or county where laws regarding estrays  
5 are in force.

6 Upon the impounding of any bovine animal, horse,  
7 mule, or burro, the poundkeeper or other pound officer  
8 shall immediately notify the secretary. Upon receipt of  
9 that notice, the secretary shall take possession of any  
10 bovine animal and shall dispose of it pursuant to this  
11 chapter.

12 This section does not authorize any act that violates  
13 Section 597 of the Penal Code.

14 SEC. 11. Section 17042 of the Food and Agricultural  
15 Code is amended to read:

16 17042. Any person that takes up an estray animal shall  
17 confine it in a secure place, and shall immediately file  
18 with the secretary a notice containing all of the following:

19 (a) A description of the animal seized.

20 (b) The marks and brands, if any.

21 (c) The probable value of the animal.

22 (d) A statement of the date and place where it was  
23 taken up and confined.

24 SEC. 12. Section 17095 of the Food and Agricultural  
25 Code is amended to read:

26 17095. The proceeds from the sale of any animal shall  
27 be paid into, and the expenses of holding, advertising,  
28 sale, and other incidental expenses shall be paid from, the  
29 Department of Food and Agriculture Fund. For the  
30 keeping and care of the estray animal, the taker-up is  
31 entitled to a per-day payment based on the prevailing  
32 rates charged by commercial enterprises that feed  
33 livestock on a custom basis.

34 SEC. 13. Section 20904 of the Food and Agricultural  
35 Code is amended to read:

36 20904. A cattle record brand may be placed upon  
37 either loin in front of the hip and behind the ribs of the  
38 animal.

39 SEC. 14. Section 20906 of the Food and Agricultural  
40 Code is amended to read:

1 20906. A cattle record brand consists of:

2 (a) Consecutive numerals, letters, or a combination of  
3 numerals or letters if placed upon the loin of an animal.

4 (b) At least three consecutive numerals that  
5 constitute a number greater than 200 if placed upon the  
6 right hip of an animal.

7 SEC. 15. Section 21051 of the Food and Agricultural  
8 Code is amended to read:

9 21051. Except as otherwise provided in this chapter,  
10 cattle shall be inspected as follows:

11 (a) Whenever cattle are sold or ownership is  
12 transferred.

13 (b) Prior to transportation out of any designated  
14 modified point-of-origin inspection area, for purposes  
15 other than sale or slaughter and no change of ownership  
16 is involved, as provided in Section 21111.

17 (c) Prior to transportation out of the state.

18 (d) Upon entry into a registered feedlot.

19 (e) Prior to slaughter.

20 (f) Prior to release or sale from a public stockyard,  
21 public saleyard, or public or private cattle sales market.

22 (g) Prior to release from a posted stockyard or posted  
23 saleyard.

24 (h) Prior to transportation out of a full point-of-origin  
25 area, as provided in Section 21141.

26 (i) Prior to transportation or movement from  
27 premises designated as quarantine, restriction, or isolated  
28 areas pursuant to Section 9565.

29 SEC. 16. Section 21068 of the Food and Agricultural  
30 Code is amended to read:

31 21068. (a) The secretary may issue a special permit to  
32 allow cattle to be transported out-of-state directly for  
33 immediate slaughter only, without the brand inspection  
34 required pursuant to this article, if all of the following  
35 conditions exist:

36 (1) The cattle were inspected previously in a  
37 registered feedlot.

38 (2) The cattle are transported to a licensed  
39 slaughterer.

1 (3) The cattle are accompanied by a permit document  
2 issued by the secretary.

3 (b) The secretary may charge a fee to cover the costs  
4 of issuing or renewing an annual permit. The fee may not  
5 exceed one hundred dollars (\$100).

6 (c) The secretary may, at any time, revoke the permit  
7 and require a brand inspection if the secretary  
8 determines that this action is necessary to enforce this  
9 division.

10 SEC. 17. Section 21292 of the Food and Agricultural  
11 Code is repealed.

12 SEC. 18. Section 21702 of the Food and Agricultural  
13 Code is amended to read:

14 21702. No person shall buy, sell, or accept any animal,  
15 unless the seller or donor gives, and the buyer or donee  
16 receives, at the time of the delivery of the animal, a  
17 written bill of sale or written instrument from the owner,  
18 or his or her agent, that gives the number, kind, breed,  
19 and sex, and, if branded, the brand and location of the  
20 brand on each animal.

21 SEC. 19. No reimbursement is required by this act  
22 pursuant to Section 6 of Article XIII B of the California  
23 Constitution because the only costs that may be incurred  
24 by a local agency or school district will be incurred  
25 because this act creates a new crime or infraction,  
26 eliminates a crime or infraction, or changes the penalty  
27 for a crime or infraction, within the meaning of Section  
28 17556 of the Government Code, or changes the definition  
29 of a crime within the meaning of Section 6 of Article  
30 XIII B of the California Constitution.

31 Notwithstanding Section 17580 of the Government  
32 Code, unless otherwise specified, the provisions of this act  
33 shall become operative on the same date that the act  
34 takes effect pursuant to the California Constitution.